

COUNCIL OF THE DISTRICT OF COLUMBIA
Councilmember Kathleen Patterson
John Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Memorandum

To: Councilmembers

From: Councilmember Kathy Patterson

Date: October 17, 2003

Subject: Introduction of legislation on hazardous materials transport

On Tuesday, October 21, 2003, I will be introducing the "Terrorism Prevention and Safety in Hazardous Materials Transportation Act of 2003."

After September 11, 2001, the District of Columbia was designated by the U.S. Department of Homeland Security as a High Threat Target City for future attacks, as the home of many national institutions which provide attractive targets for terrorism. According to testimony received by the Council on October 6, 2003, there is potential of terrorists' use of hazardous materials in transportation as Weapons of Mass Destruction, a scenario that could result in significant casualties and property damage.

Hazardous materials travel through the District daily by rail and highway, with many of the most dangerous having neither origin nor destination in the District. The District has banned truck cargoes of hazardous materials from the urban tunnels under the federal enclave, but has also established and signed the Southeast-Southwest Freeway as an approved hazardous cargo route. The District is a major convergence point for freight traffic on the East Coast, but there are alternative routes that could carry the most hazardous cargoes through non-target cities outside the DC metropolitan area.

Despite this threat, the District government has no regulations on the safe routing of such cargoes. Attached is a draft of proposed legislation that would require such regulation. It is based on New York City's Fire Code Chapter 40, which has regulations which require the re-routing of three of the most dangerous classes of truck hazardous cargoes. These regulations were upheld by the federal courts in 1982 as legal, because of their significant public safety benefits.

I would welcome your co-introduction. Please call Amy Mauro of my staff with any questions or to co-introduce at 724-7808.

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To prohibit large shipments of certain extremely dangerous materials through or near the National Mall in order to reduce the risk of attacks by terrorists; to allow for the issuance of permits authorizing such shipment in special cases; and to require the Mayor to issue regulations to implement the provisions of this act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,
That this act may be cited as the “Terrorism Prevention and Safety in Hazardous Materials Transportation Act of 2004”.

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) “Emergency” means an unanticipated, temporary situation that threatens the immediate safety of individuals or property, as determined by the District of Columbia Department of Transportation.

(2) “National Mall Exclusion Zone” means all points within two miles of the rectangular area bounded on the East by the U.S. Capitol Building, on the South by Independence Avenue, on the West by the Lincoln Memorial, and on the North by Constitution Avenue.

(3) “Practical alternative route” means a route (1) which lies entirely outside the National Mall Exclusion Zone and (2) whose use would not make shipment of the materials in question cost-prohibitive.

(4) “Through-shipment” means any shipment which passes through the National Mall Exclusion Zone unless that shipment’s point of origin or ultimate destination lie within the National Mall Exclusion Zone.

Sec. 3. Except in cases of emergency, it shall be illegal in the District of Columbia to make through-shipments of the following without a permit:

(a) Explosives of Class 1, Division 1.1, or Class 1, Division 1.2, as designated in 49 CFR Section 173.2, in a quantity greater than 500 kg.,

(b) Flammable gasses of Class 2, Division 2.1, as designated in 49 CFR Section 173.2, in a quantity greater than 1000 liters,

(c) Poisonous gasses of Class 2, Division 2.3, as designated in 49 CFR Section 173.2, in a quantity greater than 1000 liters, and belonging to Hazard Zones A or B as defined in 49 C.F.R. 173.116, and

(d) Poisonous materials, other than gasses, of Class 6, Division 6.1, in a quantity greater than 1000 kg., and belonging to Hazard Zones A or B as defined in 49 C.F.R. 173.133.

Sec. 4. Permits

A permit authorizing one or more through-shipment of materials listed in sec. 3 may be obtained upon a demonstration that there is no practical alternative route. Any such permit may require adoption of safety measures, including but not limited to time-of-day restrictions.

Sec. 5. Regulations.

(a) The Mayor, pursuant to title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et*

seq.), shall issue regulations to implement the provisions of this act, including a schedule of permit fees to support analysis, communications to shippers and carriers, and the enforcement program. Permit fees collected pursuant to this Act shall not exceed the cost of implementing and enforcing this Act.

(b) The regulations shall be promulgated by the District of Columbia Department of Transportation in consultation with the Emergency Management Agency, Fire and Emergency Medical Services Department, and Metropolitan Police Department.

Sec. 6. Fiscal Impact.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by Section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 7. Effective Date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in Section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C.